

County Surveyor Guide
to
Section Corner Perpetuation in Indiana
and
Compliance with IAC 865 Rule 12

County Surveyors Association
Affiliate Meeting

PURDUE UNIVERSITY
2006 Road School

March 30, 2006

Presented by:
John H. Stephens, PLS
T-E INCORPORATED

**County Surveyor Guide
to
Section Corner Perpetuation in Indiana
and
Compliance with IAC 865 Rule 12**

Instructor: John H. Stephens, PLS

Course Outline:

Overview of Indiana Law

- Perpetuation Statutes
- Section Corner Perpetuation Fund

Lost and Obliterated Corners

- Definitions
- Resource Information

Review of Original Field Notes, Township Plats and Section Subdivision Surveys

Subsequent Surveys of Record

- County Surveyor - Survey Record Books & Field Notes
- County Surveyor - Legal Surveys
- County Recorder - Recorded Surveys and Surveyors Reports (as required by IAC 865)

Corner Perpetuation of Existent, Obliterated and Lost Corners

- Complete Chain of Corner History
- Sources of Evidence – Written Evidence and Field Evidence
- Excavating for evidence at all possible corner locations
- Referencing corner locations and maintaining corner references
- Surveyor Ethics

Review of Rule 12 Revision and Section Corner Perpetuation

Various examples and discussion of standard requirements for corner perpetuation

Indiana Constitutional Law – County Surveyor

IC 36-2-12-9

Survey to constitute prima facie evidence

Sec. 9. A survey by the surveyor constitutes prima facie evidence in favor of the corners and lines it establishes.

As added by Acts 1980, P.L.212, SEC.1.

IC36-2-12-11

Administration of section; maintenance of corner record book; contents of record; procedure for establishment and perpetuation of corners

Sec. 11. (a) The surveyor shall administer this section if the surveyor is registered as a land surveyor under IC 25-21.5. If the surveyor is not registered, the surveyor shall, with the approval of the county executive, appoint a person who is registered as a land surveyor and is a resident voter of the county to administer this section. If a resident, registered land surveyor is not available, a land surveyor who resides in another county may be employed.

(b) The surveyor shall keep and maintain a corner record book, that must contain:

- (1) a record and an index by location of all the original government survey corners;
- (2) outline maps of each section, grant, tract, and subdivision or group of sections, grants, tracts, and subdivisions in the county showing the location of each corner on record and stating at the location of each corner on the map where the reference for that corner may be found; and
- (3) a reference index for each corner.

A separate card index system may be used in lieu of the index required by subdivision (3).

(c) The record of each corner referenced in the record book must contain:

- (1) the location of the corner;
- (2) an accurate description of the monument used to mark the corner such as "stone" or "iron pin";
- (3) the distance and bearings from the corner to three (3) or more permanent objects or structures;
- (4) the date the corner was last checked and the condition of the monument and references;
- (5) the name of the surveyor making the check; and
- (6) the method of establishing or relocating the corner.

(d) The records of the corners shall be established and perpetuated in the following manner:

(1) Each year the surveyor shall check and reference at least five percent (5%) of all corners shown in the corner record book.

(2) The surveyor may enter in the surveyor's corner record book the findings submitted by a private land surveyor who checks and references corners and is registered under IC 25-21.5.

(e) Any money in the county surveyor's corner perpetuation fund collected under IC 36-2-7-10 or IC 36-2-19 may be appropriated in the manner provided by law for the purposes of this section.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.342-1983, SEC.2; P.L.76-1989, SEC.2; P.L.23-1991, SEC.35.

IC 36-2-12-12

Surveyors not trespassers; actual damages

Sec. 12. While doing work under section 10 (legal surveys) or 11 (section corners) of this chapter, a land surveyor registered under IC 25-21.5, an unregistered county surveyor, or the employees of a county surveyor are not considered trespassers and are liable only for the actual damages they cause to property.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.342-1983, SEC.3; P.L.23-1991, SEC.36.

Indiana Administrative Code – IAC865 Rule 12

SECTION 26. 865 IAC 1-12-10 IS AMENDED TO READ AS FOLLOWS:

865 IAC 1-12-10 Field ~~investigation~~ work for retracement and original surveys

Authority: ~~IC 25-31-1-7~~ IC 25-21.5-2-14

Affected: ~~IC 25-31-1~~ IC 25-21.5

Sec. 10. When conducting a retracement **or original** survey, a land surveyor shall do the following:

- (1) Search for **controlling physical monuments** and, when found, weigh their reliability.

865 IAC 1-12-2 Definitions; abbreviations

Authority: IC 25-21.5-2-14 **Affected:** IC 25-21.5-4-2

Sec. 2. (a) The definitions in this section apply throughout this rule.

(b) “ALTA/ACSM Land Title Survey” refers to an original or retracement survey conducted in accordance with the “Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys” as such requirements are adopted by the American Land Title Association, the National Society of Professional Surveyors and/or the American Congress on Surveying and Mapping.

(c) “Controlling monument” means any ~~undisturbed~~ artificial, physical, or record monument called for in a record plat or land title description and controls the location, dimensions, ~~and~~ and/or configuration of the described tract.

- (2) Search for and locate monuments that:
 - (A) reference missing control monuments; and
 - (B) substantiate control monuments that have been obliterated.
- (3) Search for and locate other monuments and real evidence that are necessary to the survey.

- (4) **If necessary**, investigate possible parol evidence supporting the positions of obliterated control monuments and obtain the necessary affidavit or affidavits from individuals involved.
- (5) Obtain necessary measurements to correlate all found evidence, including the relationship to adjoining properties.
- (6) Obtain sufficient check measurements to satisfactorily verify the work.
- (7) Locate physical evidence of possession between adjoiners, ~~make comments on possible age of possession,~~ and **verify identify age of possession, for example**, by parol evidence, if possible.
- (8) Survey field notes shall be in the form required by section 6 of this rule.
- (9) **Any controlling corners that are original public land survey corners or other government corners such as land grants shall be evaluated, perpetuated and documented in accordance with section 30 of this rule.**

(State Board of Registration for Land Surveyors; 865 IAC 1-12-10; filed Jun 21, 1988, 4:05 p.m.: 11 IR 3912; filed Jul 17, 1991, 4:30 p.m.: 14 IR 2244; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237; filed Jan 26, 2004, 11:00 a.m.: 27 IR 1885) NOTE: 864 IAC 1.1-13-10 was renumbered by Legislative Services Agency as 865 IAC 1-12-10.

Section Corner Perpetuation Fund – County Surveyor

IC 36-2-7-10

County recorder's fee

Sec. 10. (a) The county recorder shall tax and collect the fees prescribed by this section for recording, filing, copying, and other services the recorder renders, and shall pay them into the county treasury at the end of each calendar month. The fees prescribed and collected under this section supersede all other recording fees required by law to be charged for services rendered by the county recorder.

(b) The county recorder shall charge the following:

(1) Six dollars (\$6) for the first page and two dollars (\$2) for each additional page of any document the recorder records if the pages are not larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(2) Fifteen dollars (\$15) for the first page and five dollars (\$5) for each additional page of any document the recorder records, if the pages are larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(3) For attesting to the release, partial release, or assignment of any mortgage, judgment, lien, or oil and gas lease contained on a multiple transaction document, the fee for each transaction after the first is the amount provided in subdivision (1) plus the amount provided in subdivision (4) and one dollar (\$1) for marginal mortgage assignments or marginal mortgage releases.

(4) One dollar (\$1) for each cross-reference of a recorded document.

(5) One dollar (\$1) per page not larger than eight and one-half (8 1/2) inches by fourteen (14) inches for furnishing copies of records produced by a photographic process,

and two dollars (\$2) per page that is larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(6) Five dollars (\$5) for acknowledging or certifying to a document.

(7) Five dollars (\$5) for each deed the recorder records, in addition to other fees for deeds, for the county surveyor's corner perpetuation fund for use as provided in IC 32-19-4-3 or IC 36-2-12-11(e) *As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.269, SEC.2; P.L.342-1983, SEC.1; P.L.290-1985, SEC.8; P.L.98-1986, SEC.10; P.L.167-1987, SEC.11; P.L.5-1988, SEC.211;*

P.L.231-1989, SEC.11; P.L.18-1990, SEC.290; P.L.45-1990, SEC.6; P.L.190-1991, SEC.6; P.L.2-1992, SEC.887; P.L.58-1993, SEC.19; P.L.31-1994, SEC.10; P.L.314-1995, SEC.1; P.L.273-1995, SEC.2; P.L.211-1996, SEC.4; P.L.151-1999, SEC.2; P.L.241-1999, SEC.2; P.L.2-2002, SEC.107; P.L.2-2003, SEC.101; P.L.73-2004, SEC.47.

IC 36-2-12-15

Compensation

Sec. 15. (a) If the surveyor serves as highway supervisor or county highway engineer and is compensated for that service in an amount greater than the compensation fixed under this title, then that compensation is in lieu of the compensation fixed under this title.

(b) When fixing the compensation of county officers under this title, the county fiscal body shall fix:

(1) compensation for the surveyor as if he is registered under IC 25-21.5 or IC 25-31; and

(2) compensation for the surveyor as if he is not registered under IC 25-21.5 or IC 25-31.

The compensation fixed under subdivision (1) must be one and one-half (1 1/2) times that fixed under subdivision (2). The county fiscal body shall then determine whether or not the surveyor is registered under IC 25-21.5 or IC 25-31 and shall fix his compensation in the proper amount.

(c) In addition to the compensation fixed under subsection (b), if the surveyor describes and certifies the number of miles of active regulated drains in the county to the county executive, he is entitled, with the approval of the county executive, to:

(1) two dollars (\$2) per mile for each mile described and certified, if he is not registered under IC 25-21.5 or IC 25-31; or

(2) four dollars (\$4) per mile for each mile described and certified, if he is registered under IC 25-21.5 or IC 25-31.

(d) In addition to the compensation fixed under subsections (b) and (c), the surveyor is entitled to:

(1) two dollars (\$2) for each corner reference required under section 11 of this chapter, if he is not registered under IC 25-21.5 or IC 25-31; or

(2) four dollars (\$4) for each corner reference required under section 11, if he is registered under IC 25-21.5 or IC 25-31.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.309, SEC.103; P.L.342-1983, SEC.4; P.L.2-1997, SEC.81.

Definitions

From *Restoration of lots or Obliterated Corners & Subdivision of Sections – A Guide for Surveyors* (BLM, 1974)

An **Existent Corner** is one whose position can be identified by verifying the evidence of the monument, or its accessories, by reference to the description that is contained in the field notes, or where the point can be located by acceptable supplemental survey record, some physical evidence or testimony. Existent corners cannot be disturbed or moved.

An **Obliterated Corner** is one at whose point, there are no remaining traces of the monument, or its accessories, but whose location has been perpetuated, or the point for which may be recovered beyond reasonable doubt, by the acts and testimony of the interested landowners, competent surveyors, or other qualified local authorities, or witnesses, or by some acceptable record evidence.

A position based on collateral evidence should be duly supported, generally through proper relation to known corners, and agreement with the field notes regarding distances to natural objects, stream crossings, line trees, and off-line tree blazes, etc. or unquestionable testimony. [Collateral evidence is evidence other than the monument or its accessories, such as fence lines, recorded distances to a stream, and testimony of competent surveyors]

A **Lost Corner** is a point of a survey whose position cannot be determined, beyond a reasonable doubt, either from traces of the original marks or from acceptable evidence or testimony that bears upon the original position, and whose location can be restored only by reference to one or more interdependent corners.

If there is some acceptable evidence of the original location of the corner, that position will be employed.

The decision that a corner is lost should not be made until every means has been exercised that might aid in identifying its true original position.

Resource Information

*Restoration of Lost or Obliterated Corners & Subdivision of Sections
a guide for surveyors – United States Department of the Interior, Bureau of
Land Management – 1974 Edition*

*Restoration of Lost or Obliterated Corners and Subdivision of Sections
1883-1974, Compiled by: CARBEN SURVEYING REPRINTS*

Retracement Steps to Follow in Corner Recovery

Resource: *Restoration of Lost or Obliterated Corners & Subdivision of Sections a guide for surveyors – United States Department of the Interior, Bureau of Land Management – 1974 Edition*

1. Secure a copy of the original plat and field notes
2. Secure all available data regarding subsequent surveys
3. Secure the names and contact the owners of the properties adjacent to the lines that are involved in the retracement
4. Find the corners that may be required;
First: By the remaining physical evidence;
Second: By collateral evidence, supplemental survey records, or testimony, if the original monument is regarded as obliterated, but not lost, or;
Third: By application of the rules for proportionate measurement, if lost;
5. Reconstruct the monuments as required, including the placing of reference markers where improvements of any kind might interfere, or if the site is such as to suggest the need for supplemental monumentation;
6. Note the procedure for the subdivision of sections where these lines are to be run; and
7. Prepare an file a suitable record of what was found, the supplemental data that was employed, a description of the methods used, the direction and length of lines, the new markers, and any other facts regarded as important

Most of these steps are valid not only when retracing a prior survey, but as applied to the recovery of any obliterated corner.

Additional Sources of Evidence in Corner Recovery

Written Evidence

- Original Field Notes
- Original Plat
- County Surveyor corner records
- Legal Surveys
- Recorded Surveys
- Deeds and plats of adjacent properties
- Aerial photographs
- Quadrangle maps

Field Evidence

- Adjacent public land corners
- Original, undisturbed and called-for monuments
- Possession (fence) lines
- Parole evidence (testimony) from reliable sources

Professional Ethics

Rule 10. Rules of Professional Conduct

865 IAC 1-10-1 Ethical, economic, and legal principles; professional incompetence

Authority: IC 25-21.5-2-14

Affected: IC 25-21.5

865 IAC 1-10-4 Public safety, health, and welfare

Authority: IC 25-21.5-2-14

Affected: IC 25-21.5

Sec. 4. The land surveyor shall at all times recognize the primary obligation to protect the safety, health, and welfare of the public in the performance of professional duties. If the land surveyor's professional judgment is overruled under circumstances where the safety, health, and welfare of the public are endangered, the land surveyor shall inform the land surveyor's employer of the possible consequences and notify such other proper authority of the situation, as may be appropriate. *(State Board of Registration for Land Surveyors; Rule 11, Sec 4; filed Feb 29, 1980, 3:40 p.m.: 3 IR 635; filed Oct 13, 1992, 5:00 p.m.: 16 IR 881; readopted filed May 22, 2001, 9:55 a.m.: 24 IR 3237) NOTE: 864 IAC 1.1-11-4 was renumbered by Legislative Services Agency as 865 IAC 1-10-4.*

SECTION 40. 865 IAC 1-12-30 IS ADDED TO READ AS FOLLOWS:

Additional Section 30 – Effective April, May, 2006

Draft Copy – subject to final revision

865 IAC 1-12-30 Section corner perpetuation

Authority: IC 25-21.5-2-14

Affected: IC 25-21.5

Sec. 30. (a) This section outlines the procedures and requirements for registered land surveyors when perpetuating the location of original public land survey corners.

(b) The purported location of an original public land survey or grant corner as referenced by the county surveyor of the county in which the corner exists is prima facie evidence of that corner's location. The registered land surveyor's responsibility with regard to the use of or need for original public land survey corners or grant corners in association with an original or retracement survey is not met by merely contacting the county surveyor.

(c) If the location of an original public land survey or grant corner is not monumented and referenced by the county surveyor in accordance with Indiana Code 36-2-12, or if the registered land surveyor discovers evidence, or otherwise has reason to believe, that a monument purporting to mark the location of an original public land survey or grant corner is not in the proper location, and if that corner is necessary for purposes of conducting an original, retracement, or route survey as defined in this rule, the registered land surveyor shall contact the county surveyor

and perpetuate that corner's location in accordance with this section if the county surveyor is unable to perpetuate the corner in the timeframe required by the registered land surveyor.

(d) A registered land surveyor shall perpetuate the location of an original public land survey or grant corner by gathering evidence that may assist in determining the original location of that corner. Such evidence includes, but is not limited to:

- (1) Copies of the original public land survey field notes and plat, or transcribed copies of same.
- (2) Copies of deeds and plats that reference the location of the corner.
- (3) Copies of historic survey records, road, street, highway, and bridge plans, corner records, recorded surveys and other relevant information from the county surveyor, county recorder or other county, state and municipal offices.
- (4) Copies of current or historic aerial photographs.
- (5) Copies of records from private surveyors who practice or used to practice in the vicinity of the corner.
- (6) Parol evidence from knowledgeable landowners or others who may have information relating to the corner.
- (7) The field location of fences, walls, roadways, survey markers, tree lines, other lines of possession, interrelated or nearby section corners, quarter section corners, quarter-quarter corners, or other aliquot corner of a section, and corners of common report.

(e) After evaluating and weighing the evidence outlined in subsection (d), the registered land surveyor shall apply appropriate theory of location to determine the probable locations of the corner. The registered land surveyor shall then excavate or otherwise determine if there is a subsurface monument in those locations unless, in the registered land surveyor's opinion, there is no substantial possibility of a corner stone or other historical survey monument being found in those locations. Examples of such situations include, but are not limited to, corner locations that fall in concrete highways, in areas where other excavations have previously taken place, such as, for culverts or sewers, or in areas of substantial cut or fill, such as, for interstate highway overpasses or underpasses. Prior to excavating, the registered land surveyor shall notify the appropriate jurisdictional agencies.

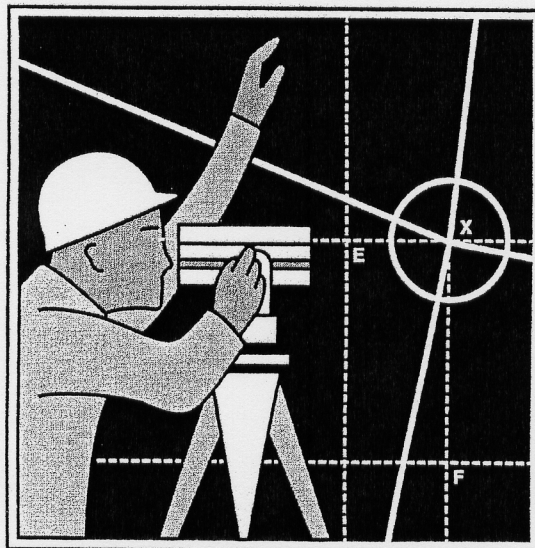
(f) If, as a result of the corner investigation, a corner stone, historical survey monument, or other evidence is found marking the corner, the registered land surveyor shall remonument and reference the corner if necessary to facilitate its recovery by other surveyors.

(g) If, after excavating or otherwise conducting subsurface investigations of the probable locations outlined in subsection (e), a corner stone, historical survey monument or other evidence of the corner is not found, the registered land surveyor shall establish the location of the corner based on the best available evidence and in accordance with procedures for lost or obliterated corners, outlined in or authorized by 43 U.S.C. 751 through 43 U.S.C. 775, and monument that location.

(h) If the corner was perpetuated for use on an original, retracement or route survey, the registered land surveyor shall describe and reference the monument in

such a manner that facilitates its recovery by other surveyors, and document the chain of history of the corner to the best of his or her knowledge, the evidence found and weighed, the search area(s), the theory of location applied in re-establishing the corner and other relevant information regarding the perpetuation of the corner in the surveyor's report and/or on the plat of survey, and provide a copy of the surveyor's report and plat of survey to the county surveyor. (*State Board of Registration for Land Surveyors; 865 IAC 1-12-30*)

**RESTORATION OF LOST OR
OBLITERATED CORNERS &
SUBDIVISION OF SECTIONS**
a guide for surveyors

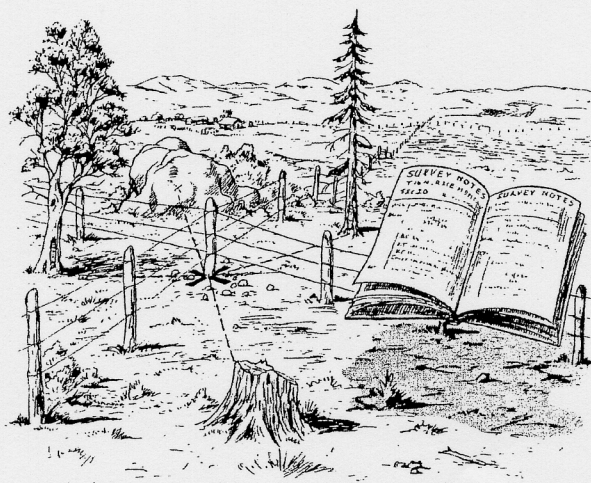


UNITED STATES DEPARTMENT OF THE INTERIOR
Bureau of Land Management
1974 Edition

1974 BLM Edition

**RESTORATION OF LOST OR
OBLITERATED CORNERS &
SUBDIVISION OF SECTIONS**

1883-1974



Compiled by
CARBEN SURVEYING REPRINTS

WABASH COUNTY SURVEYOR RECORDS

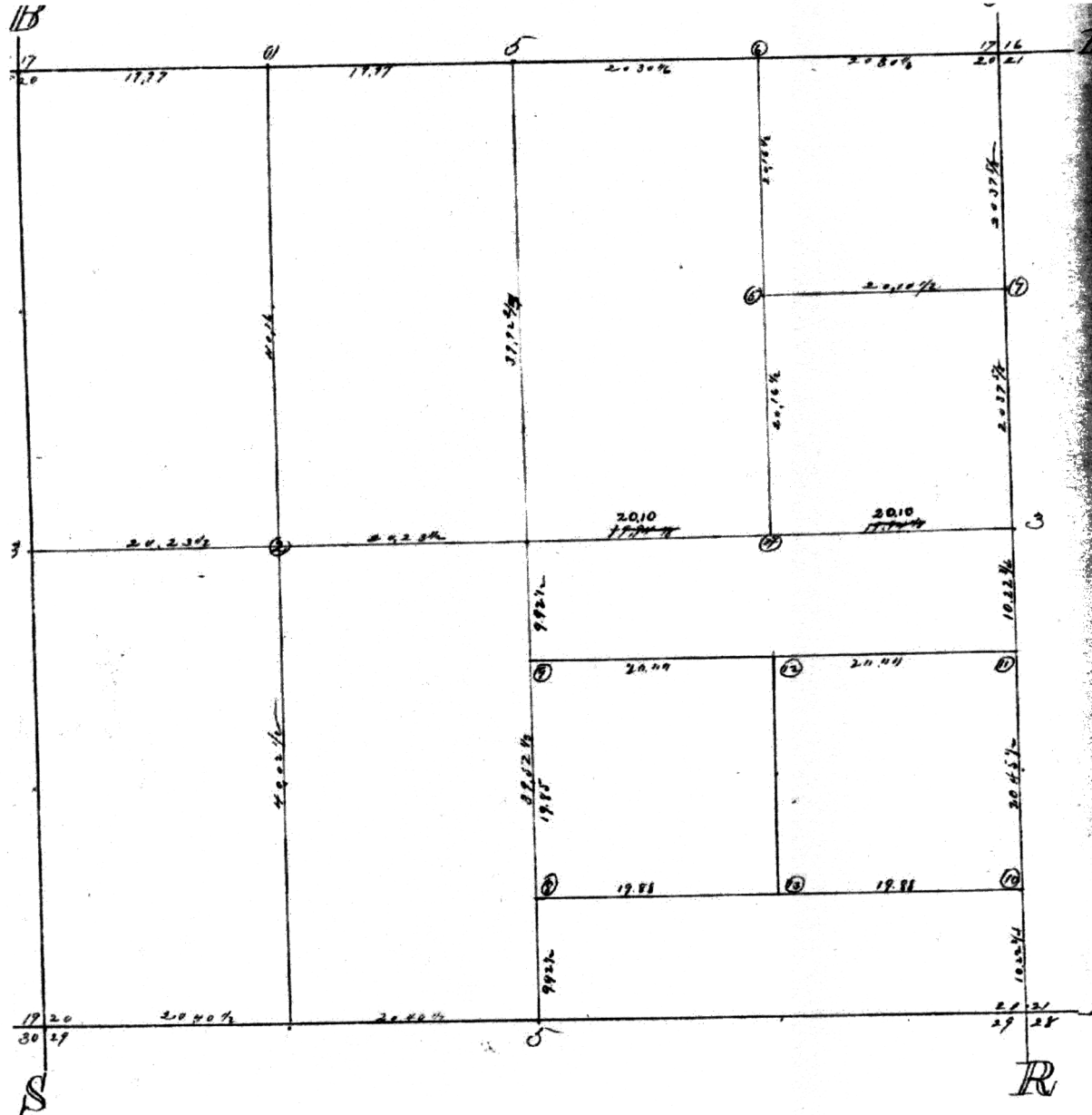
SECTION 20, T. 29 N., R.8 E.

NOTES:

1. Plat obtained from the records of the Wabash County, Indiana Surveyor.



BOOK #4, PAGE 416 (3rd. Book of 3 Books)



20-29-8
Book 4
Page 416

SECTION 20, T. 29 N., R.8 E.

1. Plat notes obtained from the records of the Wabash County, Indiana Surveyor.

S. 20 T. 29 N., R. 8 E.

[illegible]

former 1800-1812 established
 Dec 1819 1850 the same
 now visible in Frank Stables
 near Cairns. Frank Abbott
 Glasgow all over
 established by Cairns
 J. J. Cairns the same

WABASH COUNTY SURVEYOR RECORDS

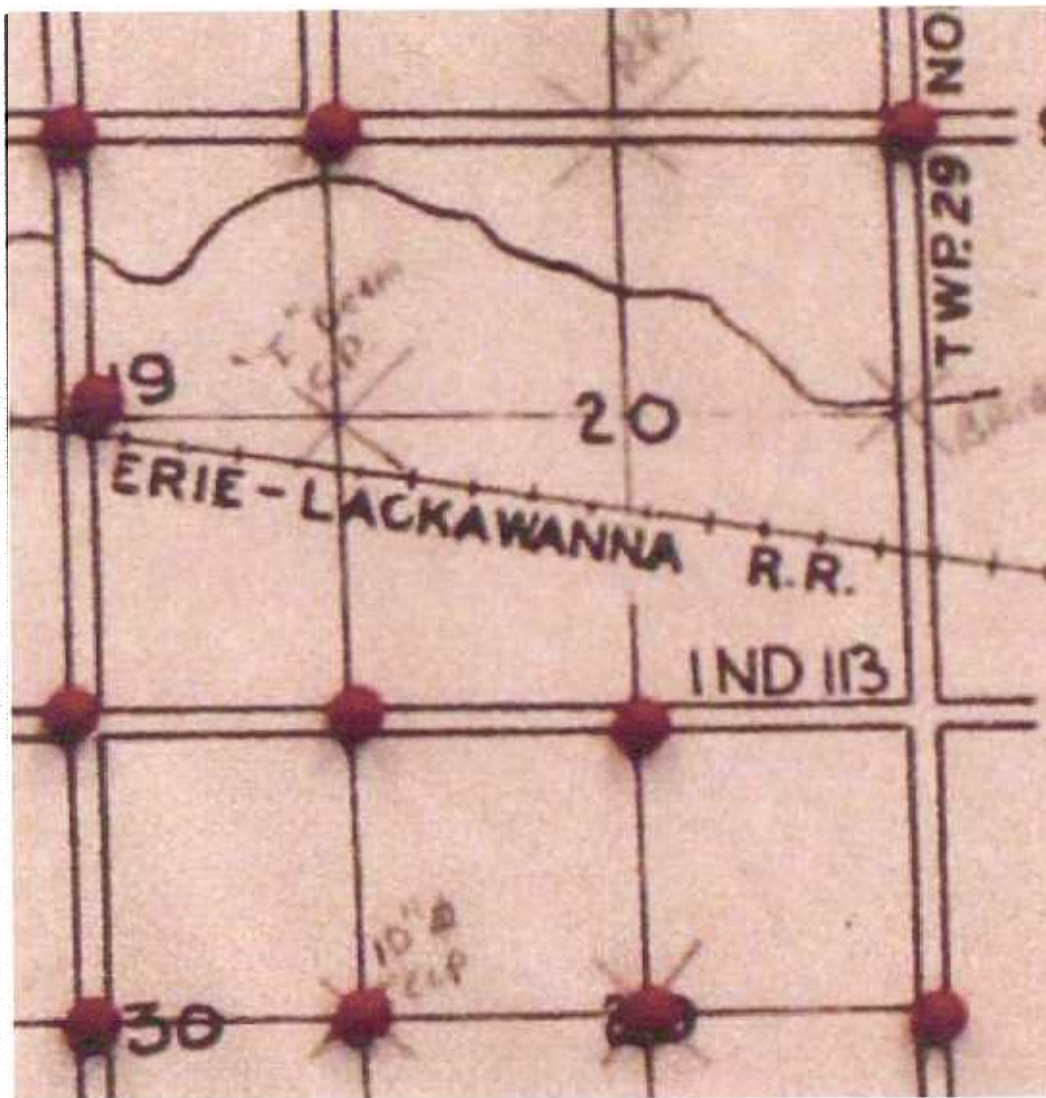
SECTION 20, T. 29 N., R.8 E.

NOTES:

1. Plat obtained from the records of the Wabash County, Indiana Surveyor.



Part of the Wall Map of Perpetuated Section Corners



HUNTINGTON COUNTY, INDIANA SURVEYOR'S OFFICE

Corner Record File
Act of March 12, 1965

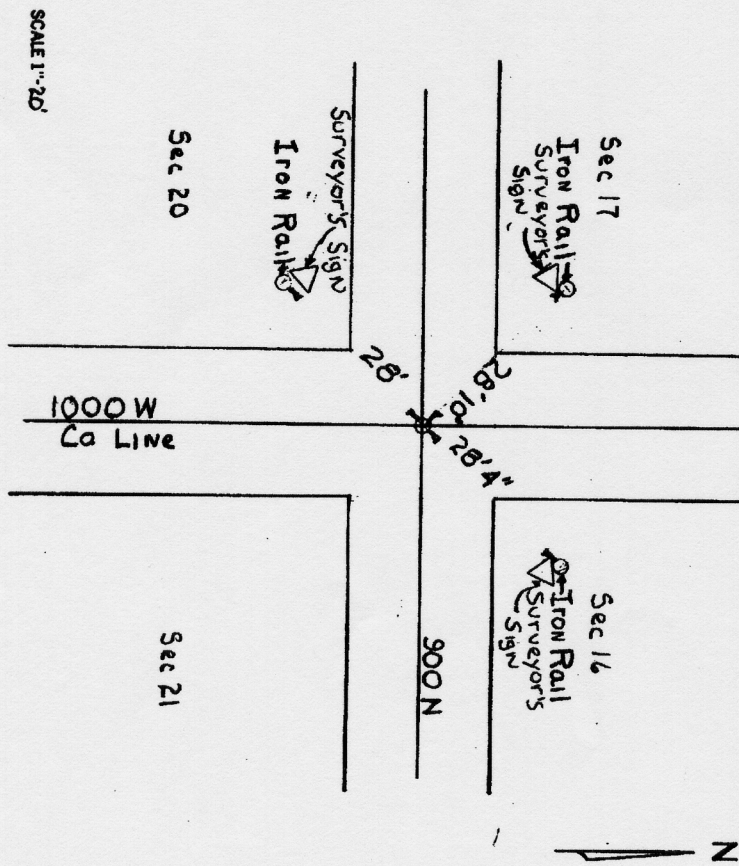
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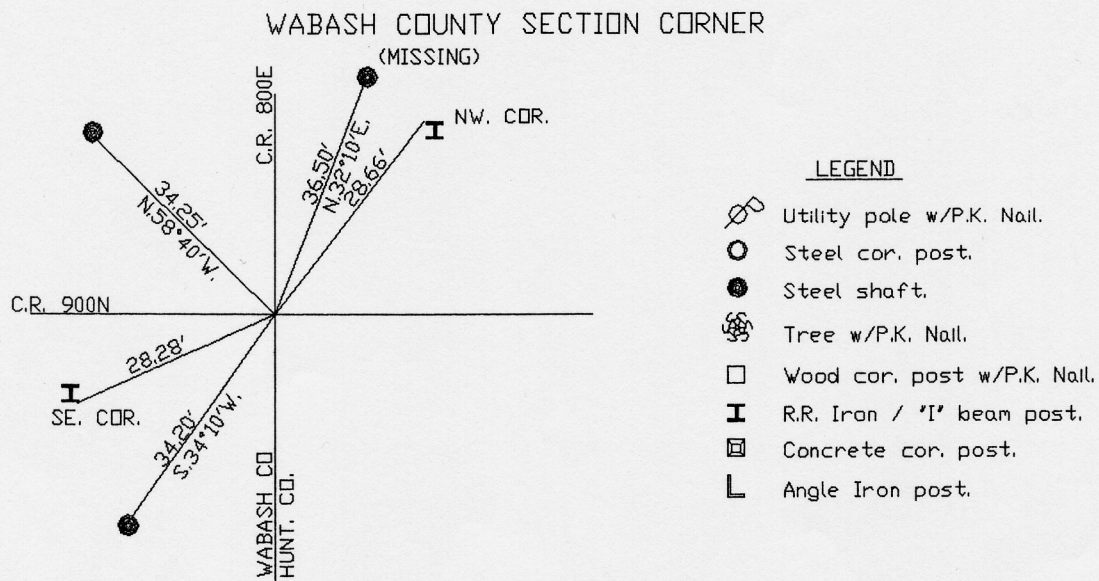
RECORD OF MONUMENT
COMMON TO:

CORNER	SEC.	TWP.	RANGE
NE	16	- 29 -	8
NW	17	- 29 -	8
SE	21	- 29 -	8
SW	20	- 29 -	8

* - Wabash County

DATE	SURVEYOR'S NAME	WITNESSES	CORNER MON.	REMARKS
1828	JOHN HENDRICKS	#1 BECHTOLD #2 W. ABRAHAM #3	POST	DE 181/141 5412161
Oct 1851		#1 Walnut NE #2 Oak NW #3	Stone	G-A 38 A-A 408
APR 12 1971	L. L. Buzard	#1 R. Moore #2 S. Scher #3		Pg 36
	Marion Mowrer	#1 #2 #3		Wabash Co High way Map - ON Back A
		#1		
		#2		
		#3		
		#1		
		#2		
		#3		
		#1		
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		#1		
		#2		
		#3		





Comments: R.R. SPIKE FOUND MATCHING 2 REMAINING SHAFT REFERENCES. REMOVED SPIKE AND SET W.C.S.M.

Shaft references were set by past County Surveyor Marion Mowrer.

RED CORNERSTONE FIELD BOOK PAGE NUMBER 4/31.

Range 7 & 8 Cornerstone book, page number 239, corner # 7 - E .

DESCRIPTION: SE COR SE1/4 SEC #17, NE COR NE1/4 SEC #20 TWP 29 N, R 8 E,
WABASH-HUNTINGTON COUNTY LINE.

Certified By: John H. Stephens

Date OCTOBER 17, 1995

R.L.S. #: S0428

Location: GG-13

Date of Reference Verification: OCTOBER 3, 2001, REPLACED CAP.

CSR 598

C-7
SECTION CORNER DOSSIER
TOWNSHIP 24 NORTH, RANGE 6 WEST,
SHELBY TOWNSHIP, TIPPECANOE COUNTY, INDIANA

MONUMENT TYPE:
BERNTSEN A1NB

DEPTH: FLUSH
NAD 83(86) COORDINATES:
NORTH: 1920006.817
EAST: 2955003.764

RECOVERED / ESTABLISHED BY:
TIPPECANOE COUNTY SURVEYOR'S OFFICE
SECTION CORNER PERPETUATION PROJECT
COUNTY OFFICE BUILDING
20 N. THIRD STREET
LAFAYETTE, INDIANA 47901
(765) 423-9228
STEPHEN L. MURRAY, PLS, COUNTY SURVEYOR
ZACHARIAH E. BEASLEY, MS/SIT, PROJECT MANAGER



REMARKS:
THE BERNTSEN A1NB MONUMENT REFERENCED ABOVE WAS SET IN PLACE OF AN IRON PIPE THAT WAS FOUND AS DEPICTED ON A PARCELIZATION PREPARED BY NICK STARR, PLS, DATED OCTOBER 3, 1995 (*9500247, RECORDED AT RECORD *9622376). NO OTHER DOCUMENTED HISTORY WAS FOUND. THE AREA WAS EXCAVATED AND PROBED, NO OTHER EVIDENCE OF MONUMENTATION WAS FOUND.

WITNESS DATE: 3 JULY 1997
CORNER REFERENCE BOOK 16, PAGE 69

WITNESSED BY: DG*AR

WITNESS DATE: 31 AUGUST 2005
ON 31 AUGUST 2005 TIE B-1 WAS ADDED.
CORNER REFERENCE BOOK 24, PAGE 35

WITNESSED BY: CO*CT

